



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,421	01/26/2007	Michael David Draper	VOI0448.US	3194

41863 7590 05/18/2010  
TAYLOR & AUST, P.C.  
P.O. Box 560  
142. S Main Street  
Avilla, IN 46710

EXAMINER
----------

LIGHTFOOT, ELENA TSOY

ART UNIT	PAPER NUMBER
----------	--------------

1715

MAIL DATE	DELIVERY MODE
-----------	---------------

05/18/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,421	<b>Applicant(s)</b> DRAPER, MICHAEL DAVID	
	<b>Examiner</b> ELENA Tsoy LIGHTFOOT	<b>Art Unit</b> 1715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8-17 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

Amendment filed on April 5, 2010 has been entered. Claims 1-17 are pending in the application. Claims 2, 7, are withdrawn from consideration as directed to a non-elected invention.

Claims examined on the merits are 1, 3-6, and 8-17.

***Title of the Invention***

A new descriptive title filed on April 5, 2010 has been entered.

***Specification***

The corrected specification filed on April 5, 2010 has been entered. However, the specification is still missing sections: (b) CROSS-REFERENCE TO RELATED APPLICATIONS and (i) DETAILED DESCRIPTION OF THE INVENTION.

The specific reference to the international application required under 35 U.S.C. 120 and 365(c) must either be contained in the first sentence(s) of the specification following the title or included in an application data sheet. 37 CFR 1.78(a)(2)(iii). The specific reference must identify the parent international application by international application number and international filing date and indicate the relationship of the applications (i.e., continuation, continuation-in-part, or division). See 37 CFR 1.78(a)(2)(i)) and MPEP § 201.11. An example of an appropriate first sentence of the specification is, for example, "This is a continuation of International Application PCT/JP05/22399, with an international filing date of November 30, 2005."

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or

Art Unit: 1715

an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

### ***Claim Objections***

1. Objection to claims 11, 16 and 17 because of the informalities has been withdrawn due to amendment.
2. Objection 1 to claim because of the informalities has been withdrawn due to amendment.
3. Objection to claims 3-6, and 8-17 because of the informalities has been withdrawn due to amendment.
4. Objection to claim 13 because of the informalities has been withdrawn due to amendment.
5. Objection to claims 12 and 15 because of the informalities has been withdrawn due to amendment.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 1715

7. Rejection of claim 8 under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling has been withdrawn due to amendment.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Rejection of claims 1, 3-6, and 8-17 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn due to amendment.

10. Rejection of claim 8 under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps has been withdrawn due to amendment.

11. Rejection of claim 8 under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections has been withdrawn due to amendment.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Rejection of claims 1, 3-6, and 9-17 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Moens et al (WO03010248) has been withdrawn due to amendment.

15. Rejection of claims 12, and 14-17 under 35 U.S.C. 103(a) as being unpatentable over Moens et al '248 has been withdrawn due to amendment.

16. Claims 1, 3-6, and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moens et al (WO03010248) in view of Biller et al (US 5824373).

Moens et al is applied here as in the previous Office Action. Moens et al fails to teach pre-heating the fabric to enable the powder to stick to the fabric (Claim 1).

Biller et al teaches that a wooden substrate may be coated with UV curable powder composition by *preheating* the substrate prior to application of the powder coating to a temperature below that at which irreversible damage to the structure or appearance of the substrate occurs; typically in the range of 165-190°F, electrostatically charging the UV curable powder onto the substrate, employing a second heating step to typically 165-190°F prior to curing with UV irradiation (See column 13, lines 10-24).

***Preheating*** wooden substrate prior to electrostatic deposition of a powder coating causes the powder to soften and flow upon contact with the substrate, leading to better

Art Unit: 1715

coverage (See column 29, lines 48-50). It is typically necessary to include as part of the powder coating formulation agents for the depression of the melting point so temperatures on the wooden substrate do not exceed 200°F (See column 29, lines 44-48). Electrostatically charged UV curable powder is directed onto the pre-heated substrate, followed by a second heating step typically at 165-190°F prior to curing (See column 13, lines 10-19) to cause the powder coating to flow into a uniform covering of the substrate (See column 14, lines 56-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have preheated wooden substrate prior to electrostatic deposition of a powder coating in Moens with the expectation of providing the desired softening and flowing the powder upon contact with the substrate, leading to better coverage, as taught by Biller et al.

17. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moens et al '248 in view of Biller et al '373, as applied above, and further in view of Heintz (US 2300155).

Moens et al '248 in view of Biller et al '373 fails to teach that the powder is applied to a substrate as a thin layer to form a porous coating.

Heintz teaches that where it is desired to make fabric breathable, coatings may be applied to a fabric in discontinuous areas as for instance in dots or in gridiron form, or as a very thin discontinuous coating (See column 1, lines 49-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied a powder to a textile substrate in Moens et

Art Unit: 1715

al '248 in view of Biller et al '373 as a very thin discontinuous coating with the expectation of providing the coated textile with desired breathability, as taught by Heintz.

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELENA Tsoy LIGHTFOOT whose telephone number is (571)272-1429. The examiner can normally be reached on Monday-Friday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 1715

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy Lightfoot, Ph.D.  
Primary Examiner  
Art Unit 1715

May 18, 2010

/Elena Tsoy Lightfoot/